



CRL.R.C.No.2363 of 2024
and Crl.M.P.No.18199 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2024

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MR.JUSTICE N.SESHASAYEE

Crl.R.C.No.2363 of 2024
and Crl.M.P.No.18199 of 2024

D.Jayakumar

... Petitioner

Vs.

State Rep.by
Inspector of Police
Vigilance and Anti-Corruption
City Special Unit-I
Chennai 600 028

... Respondent

Prayer: Revision Case filed under Section 438 r/w 442 of BNSS Act, 2023, to call for the records culminating in the impugned order dated 06.12.2024 partly dismissing the Crl.M.P.No.739 of 2024 in C.C.No.29 of 2013 by the learned Special Judge, Special Court for the cases under Prevention of Corruption Act, Chennai and set aside the same and consequently allow the examination of Assistant Director, Fisheries and Fisherman Welfare, Royapuram, Chennai.



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For Petitioner : Mr.P.Rajkumar Pandian

For Respondent : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)

ORDER

The petitioner herein is facing trial for charges U/s.7 and 13(2) r/w Section 13(1)(d) of Prevention of Corruption Act, 1988. The case is posted for arguments. In this circumstances, the petitioner has taken out Crl.M.P.No.739 of 2024 for summoning a certain official of the Fisheries Department, who indeed had nominated one of its officials as the shadow witness for the trap. The petitioner submits that he had obtained certain documents which will not predict or disprove the prosecution case that the shadow witness was present at the time of trap. Whatever documents which he considers relevant to his defence, he had enclosed it along with his written submissions during the questioning U/s.313 Cr.P.C. Now, he requires to prove those documents formally. It is for this purpose, he had taken out this application which the trial Court had dismissed on the ground that they are not relevant to the issue.



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2.Heard both sides. This Court considers that it may be too premature a stage for the Court to come to a conclusion about the relevancy of the documents which the petitioner likes to present. Indeed, U/s.11 of the Evidence Act, 1872, any fact which makes the cause of action probable or improbable is relevant, and in criminal cases an accused is only required to create an improbability of the prosecution case vis-a-vis proof of any specific fact. This apart, when the petitioner relies on certain documents as his defence and disclosed it during 313 Cr.P.C. questioning stage, it is only appropriate that he is given an opportunity to prove them formally, since introduction of a document merely during Section 313 questioning does not amount to proof of the contents of the documents.

3.In view of the same, the present Criminal Revision Case is allowed. The order passed in Crl.M.P.No.739 of 2024, in C.C.No.29 of 2013 on the file of the learned Special Judge, Special Court for the cases under Prevention of Corruption Act, Chennai, is hereby set aside. The petitioner is required to apply for summons before the trial Court on



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N.SESHASAYEE, J.

kas

23.12.2024. It is underscored that witness shall be examined by the petitioner on the day he appears before the Court. Consequently, the connected miscellaneous petitions are closed.

20.12.2024

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Note: Issue order copy on 20.12.2024

Index : Yes / No

Neutral Citation

To

1.The Special Judge
Special Court for the cases under
Prevention of Corruption Act, Chennai

2.Inspector of Police
Vigilance and Anti-Corruption
City Special Unit-I
Chennai 600 028

3.The Public Prosecutor
High Court of Madras
Chennai 600 104

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